

## **REMARKS**

The present Amendment amends claims 1-29 and 31-35 and leaves claims 30 and 36 unchanged. Therefore, the present application has pending claims 1-36.

Applicants acknowledge the Examiner's indication in paragraph 1 of the Office Action that the September 16, 2004 Information Disclosure Statement has been considered with the exception of one document. The alleged missing document is attached along with a copy of the PTO-1449 of the September 16, 2004 Information Disclosure Statement to permit the Examiner to indicate consideration thereof.

Applicants also acknowledge the Examiner's indication in paragraph 1 of the Office Action that the August 5, 2003 Information Disclosure Statement has not been considered being that the Examiner alleges that the requirement of 37 CFR §1.98(a)(1) have not been complied with. Attached herewith is a PTO-1449 providing a listing of said references and copies of said references so as to permit consideration thereof.

Applicants acknowledge the Examiner's indication in paragraph 5 of the Office Action that claims 3-5 and 27-29 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Amendments were made to claims 3-5 and 27-29 to place them in independent form including all the limitations of the base claim and any intervening claims. Therefore, claims 3-5 and 27-29 are allowable as indicated by the Examiner.

Claims 1, 2, 6, 8-11, 13-22, 24-26 and 30-36 stand rejected under 35 USC §102(e) as being anticipated by Blumenau (U.S. Patent No. 6,574,667);

and claims 7, 12 and 23 stand rejected under 35 USC §103(a) as being unpatentable over Blumenau in view of Gilbraith (U.S. Patent Application Publication No. 2002/0069322). These rejections are traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in 1, 2, 6-26 and 30-36 are not taught or suggested by Blumenau or Gilbraith whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

Amendments were made to claims 1, 2, 6-26 and 30-36 in order to more clearly describe features of the present invention not taught or suggested by any of the references whether taken individually or in combination with each other. Particularly, amendments were made to each of the independent claims to more clearly recite features which were determined by the Examiner as being allowable over the prior art of record. Specifically, amendments were made to each of the independent claims so as to more clearly recite that the acquiring step or function includes a process for acquiring a processing execution time required for the program and estimating a processing execution time and the amount of data supplied to the program as an input. These features of the present invention allows for performance requirements to be monitored for each job as illustrated, for example, in Fig. 17, on line job management information 700 and Fig. 15, on line job management information 770 as per the present application.

As per the present invention as now more clearly recited in the claims by keeping such performance requirements for each job the settings of the

storage system can be optimized. Such features are clearly not possible in any of the references of record, for example, Blumenau and Gilbraith.

Blumenau teaches a storage apparatus wherein data access processes in the storage controller 27 and low distribution processes of the 32 port switch 40 are disclosed. However, at no point is there any teaching or suggestion in Blumenau of the migration of data stored in storage volumes 26 and in the storage devices 28, 29, 30 and 31. In Blumenau, priority is allocated per each loop port as discussed, for example, in col. 10, lines 21 and 22 thereof. Blumenau also teaches that priority is allocated per each host as discussed, for example, in col. 15, lines 40 and 41. Blumenau teaches load monitor functions and load distribution processes. However, at no point is there any teaching or suggestion in Blumenau that performance requirements are monitored and such performance requirements when detected are used to make changes in the configuration of the storage apparatus as in the present invention.

Thus, Blumenau fails to teach or suggest a procedure for acquiring information on a performance required for the program, wherein the procedure includes a process for acquiring a processing execution time required for the program and estimating a processing execution time and the amount of data supplied to the program as an input as in the present invention.

Therefore, Blumenau fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejection of claims 1, 2,

6, 8-11, 13-22, 24-26 and 30-36 as being anticipated by Blumenau is respectfully requested.

The above noted deficiencies of Blumenau are not supplied by any of the references of record particularly Gilbraith. At no point is there any teaching or suggestion in Gilbraith of the above described features of the present invention now more clearly recited in the claims are not taught or suggested by Blumenau. Particularly, Gilbraith does not teach or suggest the features in the present invention regarding the measuring of the performance requirements relative to a program being executed so as to change settings on the storage system as in the present invention. Thus, Gilbraith suffers from the same deficiencies relative to the features of the present invention as Blumenau.

Therefore, combining the teachings of Gilbraith and Blumenau in the manner suggested by the Examiner in the Office Action still fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 7, 12 and 23 as being unpatentable over Blumenau in view of Gilbraith is respectfully requested.

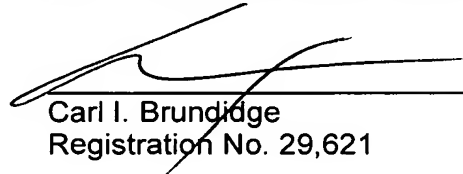
The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1, 2, 6-26 and 30-36.

In view of the foregoing amendments and remarks, applicants submit that claims 1-36 are in condition for allowance. Accordingly, early allowance of claims 1-36 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (520.43012X00).

Respectfully submitted,

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